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OFFICE OF PETITIONS

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

In re Patent No. 7,958,224 :
Amjadi : DECISION DISMISSING
Application No. 09/251,480 : REQUEST FOR
Issue Date: June 7, 2011 : RECONSIDERATION OF
Filed: February 17, 1999 : PATENT TERM ADJUSTMENT
Attorney Docket No. : UNDER 37 CFR 1.705
INVE0012-1 :

This is in response to the "37 CFR 1.701 Application for Patent Term Extension" filed June 23, 2011. The petition is properly treated under 37 CFR 1.705(d)¹. Patentee requests that the determination of patent term adjustment be corrected from eight hundred and seventy-six (876) days to one thousand, one hundred and sixty-five (1,165) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 876 days.

No consideration will be given to patentee's assertion that the reduction to the patent term adjustment should be no more than 92 days or to patentee's assertion that the "C" delay for successful appeal is 1,257 days rather than 1,258 days. Further to this point, PALM records indicate that the issue fee payment was received in the Office on January 9, 2011. No application for patent term adjustment under 37 CFR 1.705(b) preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of

¹ It is noted that a Continued Prosecution Application (CPA) was filed August 28, 2002. The application is, therefore, subject to adjustment of the patent term under the Patent Term Guarantee Act of 1999, which applies to original applications (other than design applications) filed on, or after May 29, 2000.

mailing of the notice of allowance ended January 9, 2011. Accordingly, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issues presented in the instant petition should have been timely raised on application for patent term adjustment under § 1.705(b). Thus, no additional adjustment to the patent term will be entered.

Patentees presented no argument under 37 CFR 1.705(d) relative to the adjustments and/or reductions which were entered, or should have been entered, pursuant to 37 CFR 1.704(c)(10) or 37 CFR 1.702(b)

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is eight hundred and seventy-six (876) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

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